

EXHIBIT "E"

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November 11, 2004

Phillip Paul Weidner
Attorney at Law
330 L Street, Suite 200
Anchorage, AK 99501

Re: U.S. v. Boshun
Case No. : A04-003 CR (JWS)

Dear Mr. Weidner:

I. Introduction:

In response to our initial discussion in early 2004, I received records on 7/23/04. I received additional records on 7/26, 7/30, 8/2, 9/9 and 10/16/04. I have reviewed a variety of records including:

1. Court documents including prosecution and defense attorney motions/affidavits, court orders, etc.;
2. 1/21/04 Indictment, 6/16/04 Second Superseding Indictment and 8/17/04 Third Superseding Indictment;
3. 9/04 Metropolitan Detention center, Los Angeles (MDC-LA) competency evaluation including forensic interview worksheets, raw data from neuropsychological, personality and competency testing, 9/17/04 Declaration of Lisa Hope, Psy.D., 9/23/04 neurological consultation by A. Sinavsky, M.D., Clinical Director of MDC-LA and 9/22/04 17 page report by Lisa Hope, Psy.D.;
4. Discussions with Mr. Weidner and staff, Terry Shurtleff, investigator, Bruce Smith, Ph.D., Clinical Psychologist, including handwritten interview notes and David Glaser, M.D., Forensic Psychiatrist, Deborah Budding, Ph.D., Neuropsychologist and James Mittelberger, M.D., MPH, Gerontologist;

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5. Selected photographs of Mr. Boehm and his residence taken at and after the arrest on 12/22/03.

I am awaiting additional records, which may be very helpful in the continuing evaluation of this case.

I have met with Mr. Boehm on seven separate occasions in the Anchorage jail including 7/24, 7/25 twice, 7/26, 10/10 twice and 10/31/04. A total of about 17 hours was spent personally interviewing Mr. Boehm in a one to one format. I also briefly met with Mr. Boehm on 10/29 and 11/1/04. Mr. Boehm was very cooperative with the evaluation process.

My review was oriented to my specialty of addiction medicine. In this field I have gained knowledge and experience with various psychological conditions. I am not a psychiatrist or psychologist, but I am knowledgeable with cognitive and psychological symptoms due to:

1. Pharmacological effects of psychoactive substances including powder and crack cocaine; and
2. An addictive life style.

A psychologist and/or psychiatrist needs to elaborate upon the psychodynamics associated with Mr. Boehm's behavioral patterns and personality factors.

My impressions and opinions are based upon available information, seven personal interviews and patterns of behavior over time. This information was interpreted based on my knowledge and experience.

II. General Background:

Mr. Boehm is a 60 year old white male who was born in Germany and immigrated to the United States in 1956 to join his mother and step-father. He has lived in Anchorage, Alaska since that time. He was married in 1969, separated in about 1984-1985 and divorced in 1986. He has one daughter who was born in 1969. He is estranged from both his ex-wife and daughter. He has three half-siblings and has had no contact with them for many years.

Mr. Boehm has a long history of psychoactive substance use, abuse and dependency. He started to use power cocaine on an irregular social basis in the early 1980's. He started to use smokable cocaine (i.e. crack) in the mid 1990's. He has met the criteria for cocaine dependence for at least eight years. He has experienced a long term history of problematic use of crack cocaine.

When about 30, Mr. Boehm bought a two store equipment business from the owner who was also a friend. Through hard work he successfully expanded this business, Alaska Industrial Hardware, to its present size of about 10 stores. He was a very successful businessman until the late 1990's when his attention to company business started to be adversely affected by his cocaine use. Top managers assumed more and more responsibility for day to day operations and

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the company continues to be run by employees. Mr. Boehm was not involved in the business from about mid-2002 until his arrest in 12/03. Since the 1990's, the primary reason for his decreased role in his company was his progressively out of control cocaine use.

In about mid-2000, Mr. Boehm met Bambi Tyree, a young woman who was involved in drug use and possibly prostitution. His crack cocaine use markedly increased after he met Ms. Tyree. Over the following years he became acquainted with Allen Bolling and Leslie Williams during his period of heavy crack cocaine use.

On 12/13/03, Mr. Boehm was arrested by the Anchorage police and released on 12/17/03. He was re-arrested on 12/22/03 on federal charges and has been incarcerated in the Anchorage jail since that time.

He is currently charged with multiple crimes including being a member "of the conspiracy" along with the previously named individuals. The charges include the use of cocaine and sexual behaviors with female juveniles. Many of the charges include "knowingly" and "intentionally" engaging in these illegal behaviors.

The purpose of this report is to evaluate these charges from a specialist perspective of addiction medicine.

III. Summary of Opinions:

Based upon review of available information and seven separate interviews totaling seventeen hours, the following is a summary of my opinions regarding Mr. Boehm and this case.

A. Mr. Boehm has the disease of Substance Dependence (i.e. behavioral addiction) to a variety of substances including:

1. Alcohol which started in Mr. Boehm's late teenage years and continued on an intermittent basis until about the late 1990's. This condition was probably in sustained partial remission during the period of "... between in or about late 2001, and continuing until at least 12/22/03, ..."
2. Cocaine which started in the early 1980's, first to the powder form which was snorted and then in about the mid 1990's to smokable cocaine.

Starting in mid to late 1990's, Mr. Boehm's use of crack cocaine started to increase and markedly so in the three or more years before his arrest on 12/22/03.

During the period of "... between in or about late, 2001, and continuing until at least 12/22/03. . .", Mr. Boehm's addiction to cocaine was extreme and in an advanced stage.

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- B. During the entire period of "... between in or about late 2001, and continuing until at least 12/22/03, ...", Mr. Boehm's heavy use of crack cocaine in combination with a variety of other factors related to chronic use such as intermittent sleep deprivation and/or malnutrition and/or possibly being given other substances without his knowledge, caused significant mental, emotional and physical impairments which prevented Mr. Boehm from being able: to act in an intentional manner that required the ability to think clearly with sound judgment; and to be fully aware of what was occurring in his life due to altered perceptions.
- C. During the period of "... between in or about late 2001, and continuing until at least 12/22/03, ...", Mr. Boehm would have been so mentally impaired from a combination of high dose crack cocaine use and/or other associated factors as to be unable to accurately remember and recount details regarding specific events that occurred during this period of time.
- D. Based upon a combination of factors including: a past history of repeated episodes of head trauma; and/or normal ageing processes in a 60 year old man; and/or a history of hypertension for about 30 years with periods of poor control; and/or a 30 plus year history of periodic heavy alcohol use; and/or a 20 year history of cocaine use including seven or more years use of crack cocaine, it is medically probable that Mr. Boehm had experienced some degree of brain damage before and/or during the period "... between in or about late 2001, and continuing until at least 12/22/03, ...", and would have experienced a greater degree of mental, emotional and physical impairments when he used any type of psychoactive substance.

This issue is still being evaluated with pending requests for structural as well as functional brain imaging, carotid artery ultrasound studies and additional neuropsychological testing.

This evaluator submitted an Affidavit on 11/1/04 outlining the rationale for additional studies/testing. I affirm that this Affidavit reflects my current opinion.

- E. In the 17 hours of personal interviews, Mr. Boehm demonstrated little to no emotional response to a wide variety of traumatic life experiences. He demonstrated an extreme passivity to a chronic and extensive history of being taken advantage of by others. He denied any feelings of anger toward his co-defendants or others that he believes have cheated or in other ways manipulated him. He demonstrated an overall paranoid ideation about many events in his past. He demonstrated an unusual pattern of thinking with loose associations and tangential thinking. He repeatedly described possible disturbances in the contents of his beliefs to include descriptions of others consistent with fixed delusions.

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IV. Issues:**A. Overview of Substance Dependence (i.e. addiction):**

Addiction is a multi-factorial condition commonly described as a psycho-social biogenic disease influenced by a mixture of genetic and environmental factors. It is a primary disease, which means that it is the principal cause of a characteristic train of signs and symptoms. The characteristics of addiction include chronicity; incurability-remission and control are possible, but not cure; progression-the disease and symptoms get worse over time in a somewhat predictable pattern; relapse is a potential occurrence since the illness is incurable; and the disease may be fatal, which may include social, emotional and spiritual as well as physical death. As addiction worsens, there are numerous physical, psychological, social, economic, legal and relationship problems.

Addiction refers to the use of any mood altering substance (alcohol, marijuana, cocaine, amphetamines, prescription narcotics, sedative/hypnotics, etc.) in such a way that is characterized by continuous or periodic impaired control over use, preoccupation with using despite adverse consequences and distortions in thinking, most notably denial. (Adapted from the 1990 definition of alcoholism from the American Society of Addiction Medicine).

A primary characteristic of addiction is compulsion regarding the affected individual's drug of choice, whether alcohol, street drugs or prescription medications. Most individuals underestimate the power of this compulsive drive to continue using despite overwhelming evidence that continued use is destructive to many aspects of their life.

The disease of addiction is not limited to a specific drug. An individual may prefer stimulants (like cocaine or amphetamines) or depressants (like alcohol, marijuana, prescription sedative/hypnotics, or narcotics), but all psychoactive substances are of potential danger to an individual with the disease of addiction.

If different psychoactive drugs are available, it is expected that an individual will switch from one to another over time. Poly drug addiction is the normal pattern seen in this country. Use of different drugs during different time periods is still the same primary disease (i.e. addiction).

The number of different drugs that an individual may have problems with is dependent on the types of drugs that have been used. After initial use, availability and accessibility are major factors in whether or not an individual will continue to use the individual drug to a degree where addiction develops or is perpetuated to that substance.

The disease of addiction does not develop instantaneously, but is progressive over a period of years. Progression is characterized by cycles of increased and decreased consumption and problems associated with use. When many cycles are observed, there is an ongoing worsening of the condition.

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The rate of progression may be affected by individual issues and life events, but the major influences are related to genetic factors, age at first use, availability, and pharmacologic effects of specific drugs.

Certain classes of drugs and routes of use cause a more rapid progression in addiction. This is related to the higher level of rewarding characteristics of certain drugs including stimulants such as cocaine. Routes of administration such as intravenous (I.V.) and smoking deliver drugs to the brain more rapidly and are therefore more rewarding.

B. Re: Cocaine:

Cocaine is a member of the class of drugs called stimulants because of its action upon the central nervous system (brain). Another substance in this class is methamphetamine.

Cocaine is not a harmless recreational drug. Cocaine is a potent brain/body stimulant with marked mood altering properties and a high potential for abuse.

Cocaine is highly addicting. With smokable and parenteral (injectable) administration, it is the number one rewarding drug in animals, greater than intravenous heroin.

The cocaine high will last for 20 to 30 minutes by snorting when this substance is used on an intermittent basis. With continued use, the duration of the high will be shorter because of alterations in brain chemicals and depletion of the neurotransmitter in the brain called Dopamine.

Rapid delivery forms of cocaine such as I.V. use and inhalation by smoking reach the brain much more quickly and cause a more rapid progression in the severity of the addiction. The high from this pattern of use lasts for only 5 to 10 minutes.

There are some individuals who use cocaine sporadically on an infrequent basis and do not demonstrate addictive behaviors to this substance. If an individual continues to use cocaine, they are at increased risk for their use to progress to problematic use. Rapid delivery forms of cocaine use are associated with a nearly 100% progression to problematic use (i.e. addiction).

The acute effects of cocaine are central nervous system stimulation. Typical users experience sensations of euphoria, heightened alertness, greater energy, etc. The behavior of the user becomes hyperactive, talkative, and restless. There may be rapid mood swings as well as fluctuations in energy levels and physical activities. Decision making is compromised with decisions and actions that reflect poor judgment. Users may say things or attempt actions that are foolish and hasty. There are distortions in thinking. Paranoid ideation occurs with high doses. Toxic effects may include psychosis requiring hospitalization for protection and stabilization. Interpersonal relationships are adversely affected. Severe isolation is not uncommon.

A constant constellation of adverse effects are seen with stimulants, even with short term, intermittent use. Anxiety, irritability and sleep difficulties are direct effects of stimulants. Depression, lack of energy, fatigue and sleep difficulties are after effects which may persist for

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several days. With regular use and particularly with runs, (i.e. days of continuous use without sleeping) the preceding symptoms will be of greater severity and may last for a prolonged period of time after abstinence is initiated (weeks to months).

Adverse physical effects persist for a prolonged period after the pleasurable experience has passed. Rapid heart rate, increased blood pressure and tremors persist. Increased muscle tensions may cause headaches. Sore muscles are a common complaint. Individuals will commonly use some type of brain depressant to "come down" from stimulants. Most commonly used is alcohol, marijuana and/or tranquilizers, sleeping pills or narcotics if available.

Stimulants cause anorexia (poor appetite). In regular users, weight loss and even malnutrition may be seen. Gastrointestinal problems including heartburn and nausea are common.

Cognitive impairments occur with stimulant use and are usually the result of a combination of effects including acute use, and/or toxic effects, and/or withdrawal symptoms (including depression), and/or sleep deprivation, and/or malnutrition.

Tolerance rapidly develops with ongoing stimulant use and increased doses are necessary to achieve similar effects. High doses cause an increased level of toxic effects which may include psychosis and/or seizures.

There is a predictable withdrawal syndrome associated with heavy stimulant use which includes extreme fatigue, decreased energy, depression and sleep disturbance. Sexual dysfunction is common with heavy, acute use as well as withdrawal. Symptoms improve over four to eight weeks, although anhedonia (without pleasure) and anergia (without energy) may be present for six months or more. Chronic withdrawal symptoms include craving. Prolonged craving is associated with an increased risk of relapse, even months or years after last use.

Cognitive, emotional and physical impairments occur both during the period of acute use, (i.e. the "high") as well as during the withdrawal/recovery phase, (i.e. the "crash").

Cocaine is expensive. Financial problems may be the first objective indicator of stimulant addiction.

Individuals addicted to cocaine often become quite desperate as their addiction progresses and they are unable to discontinue use, yet unable to admit their problem and seek help.

C. Re: Mr. Boehm's History from Personal Interviews:

Mr. Boehm was very cooperative with the interview process which occurred during five separate days in July and in October 2004. The total time spent with Mr. Boehm was 17 hours.

He initially seemed to have a fairly good memory for past periods of his life but with continued discussions, it became clear that he was in many cases estimating what may have occurred during specific timeframes since the mid-1990's. This is not surprising as his cocaine use started to increase over these eight or so years and this substance is associated with impaired memory

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formation. Mr. Boehm utilized 1/1/00, "the millennium", 9/11/01, and 8/02 when a lawsuit was filed regarding the sale of his company, Alaska Industrial Hardware, as reference points to date occurrences.

Throughout the 17 hours of interviews, Mr. Boehm would periodically engage in paranoid and/or delusional type responses. He was prone to switch topics when answering questions and depart on a tangential subject. He demonstrated little ability to interrupt this storytelling/rambling behavior on his own and return to the subject initially being discussed.

Overall, Mr. Boehm responded to questions with little to no emotional expression. This was felt by this evaluator to be unusual given the number of traumatic events that he has experienced including his current legal difficulties which could possibly result in his being incarcerated for the remainder of his life. He appears to be emotionally detached from the reality of his past as well as current life circumstances. The only exception to this pattern was when he was talking about possibly recognizing pictures of his daughter in a pornographic magazine in about 1998. He noted that this event dated the start of his decreased level of functioning at work and not trusting other people. (Mr. Boehm was using crack cocaine on an intermittent but regular basis during this time period).

Mr. Boehm appears to not appreciate how bizarre and unusual his life has been for many years, especially over the three or so years before he was arrested in 12/03 when he began spending more time with individuals heavily involved in drug use.

Mr. Boehm appears to have been an incredibly naïve individual regarding allowing others to take advantage of him including financially. These behaviors began before his regular use of crack cocaine. He relates multiple examples of giving/"loaning" money to people despite his being aware at some level that he was being swindled/used/cheated/ripped-off/manipulated. A psychiatrist/psychologist needs to address personality characteristics which would make Mr. Boehm prone to this repetitive pattern of behavior. Mr. Boehm's heavy use of crack cocaine since the late 1990's with associated impairments would make him more prone to being used by others.

Mr. Boehm presented as a very passive, non-confrontational individual. In response to direct questioning and throughout the entire period of interviews, he did not relate or express in any way that he was angry regarding others who had cheated/used him including the co-defendants.

He did admit that he avoids confrontation as a life-long personality trait. He relates feeling very uncomfortable with expressions of anger.

Mr. Boehm started to use alcohol on a regular basis when he was about 16. He developed immediate tolerance and he could consume 8 to 12 beers before feeling drunk. He has experienced blackouts after heavy drinking throughout his life. He was told that he had elevated liver enzymes since he was in his early 30's. He admits that he minimized how much he drank to his physicians. He has had three DUIs, the first when he was 18. The others were in 1985, during the period of his divorce and in 1992. He received diversion treatment for his last charge. His use of alcohol started to decrease when he began to use cocaine more frequently and

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particularly when he started to smoke cocaine. During the three years before his arrest in 12/03, Mr. Boehm denied regular or heavy drinking.

Mr. Boehm first started to use cocaine in social situations in the mid 1970's. He started to buy cocaine for him and his wife in the early 1980s. By the mid-1980's, an "eight-ball" (1/8oz = 3 1/2 grams) would last him and his wife for a weekend. He continued to use cocaine on an intermittent basis after his divorce and into the early 1990's. All cocaine use through this time was by snorting.

In about 1994, Mr. Boehm started to smoke cocaine over weekends. His use of smokable cocaine increased in about 1995-'96 and he started to "taper off" working because of crack use. In response to direct questioning, Mr. Boehm stated that he stopped feeling a good "high" from cocaine in about 1997-'98. In about 1998, Mr. Boehm started to consider retiring and started to investigate the sale of his company. He is not sure how much crack use affected this decision as it was also during the time period when he thought he recognized a picture of his daughter in a pornography magazine.

Mr. Boehm has had a bookkeeper at his company pay all of his personal bills since the early 1980's. Prior to the late 1990's, he would regularly check the accounting of his finances but started to decrease this oversight when crack use increased. With markedly increased use of cocaine in about mid-2000, he stopped even looking at his personal finances.

Immediately following his divorce in 1986, he initially lived in a condominium while his wife lived in the family house. In about mid-1990, Mr. Boehm moved back into the family house and initially liked to garden and work in the yard. In about 1998, he hired someone to mow the grass and do minimal yard work. He said that crack use interfered with his doing these activities.

Up through the summer of 1999, Mr. Boehm would commonly stay at Big Lake over weekends. He owned property and had a trailer to stay in. He stopped this activity during the summer of 2000 because of increasing crack cocaine use.

Mr. Boehm first noticed occasional sexual performance problems in the late 1980's - early 90's when intermittently using cocaine. These type problems increased significantly in the late 1990's when he was using crack. Viagra was helpful until about 2000 when his crack use increased to much higher amounts. He described no interest in sex at all starting in early/mid-2002 and volunteered "all I cared about was dope." When asked about Viagra use over the past few years, he responded that he took it as he believed it was helpful in controlling his hypertension.

Mr. Boehm described symptoms, which he described as "mini strokes" starting when he started to smoke cocaine in the mid 1990's. In about 1996-'98 people would tell him that he became inanimate and unresponsive for periods of 10-20 minutes after smoking cocaine. He initially didn't believe these stories but by about 2000 started to believe these were occurring on a regular basis because more and more people were telling him this.

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Since about 2001, Mr. Boehm has noticed that when he awakens, he sometimes has no sensation over his cheeks and has been "slobbering" on his pillow and he wouldn't remember what occurred before he went to sleep. He describes a period of poor memory and sometimes confusion for a period of time following these episodes. He occasionally has associated feelings of weakness.

Starting some time in early-mid 2000, Mr. Boehm met Bambi Tyree. He dates this association with the start of daily crack cocaine use and a rapid deterioration in his overall level of life functioning. He is not clear as to the exact timing of events, but related the following histories.

According to Mr. Boehm, before he started heavy crack use, his weight was about 185lbs. When he was arrested in 12/03, he said that he weighed about 165lbs. During periods of crack use, he would only eat once every two to three days. During the 7/04 and 10/04 interviews, Mr. Boehm said that he weighed about 195lbs.

Mr. Boehm provided an extreme history of continuous crack cocaine use from about mid-2000 until he was arrested on 12/13/03. As a testament to the severity of his dependence to cocaine during this time period, when he was released from jail on 12/17/03, he returned to using crack within hours and continued high dose use until he was arrested again on 12/22/03.

Given his financial resources, Mr. Boehm was not limited in any way in his ability to have cocaine available for use. He describes using many grams of crack cocaine per day but is unsure as to exact amounts or the purity of the crack that he was given.

He would use crack in a continuous pattern for two or more days until his body would no longer tolerate this pattern of use. He described using cocaine until he "passed out" or was "knocked out" by possibly being given unknown substances by others he was around during periods of use. He would be unconscious for up to 12 to 14 hours and wake up to find that his cheeks might be numb and that he had been "drooling" on his pillow.

Starting in about 2001-2002 and continuing to his arrests in 12/03, Mr. Boehm described a pattern of being woken up in the morning by up to five or six people who told him it was time to go to a bank to get money to buy more drugs. He said that he was unable to even get out of bed until he had five or six "hits" of crack cocaine.

Mr. Boehm described losing control of his home in about 2002. He would lock up his house and even his bedroom door yet people would break in and come and go at will despite his protestations. He described many "false alarms" by his home security system to the point that the police stopped coming to investigate.

Starting in about mid-2000, after he had met Ms. Tyree and continuing until his arrests in 12/03, Mr. Boehm described many personal items were stolen including a very expensive Rolex watch which he had had for about 15 years. He said that his blank check would be stolen on a regular basis so he started to write "counter checks." His cell phones were repeatedly stolen and he needed to buy five or so replacement phones. Others would use his cell phone without his

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permission and he believes that monthly use would be two to more than three times his 400 minute/month plan.

Sometime in about 2000, with increasing crack cocaine use, Mr. Boehm stopped reading newspapers. Before 9/11/01, Mr. Boehm said that he would commonly go out with others and did not spend much time at home. As his crack cocaine use increased, he spent less and less time outside of his home. Starting in about 2002 he almost completely stopped leaving his house except on occasion such as trips to a bank. One friend allegedly told Mr. Boehm that he was concerned that he might be being held as a "prisoner" in his home. Mr. Boehm said that after about 9/11/01, in addition to not leaving his home very often, that he withdrew from others and spent much of his time in his bedroom.

During the three years before his arrests in 12/03, Mr. Boehm made multiple promises to himself to stop using cocaine. Even before he met Ms. Tyree, his concern was sufficient that he went on a five day "millennium cruise" where cocaine would not be available. He described flushing cocaine down the toilet to prevent further use on multiple occasions starting in 2001. He estimates that the longest he has gone without cocaine when he was awake was about six hours. In response to direct questioning, Mr. Boehm responded that he never seriously considered entering a treatment program because he thought he could "stop by myself."

On 12/22/03, Mr. Boehm believes that the police came to his house in the early afternoon. He remembers being arrested and placed in handcuffs. He doesn't remember being booked and believes he wasn't put into a cell until about 10 p.m. He remembers little of what occurred in the week following 12/22/03 and believes he was asleep much of the time.

V. Discussion:

Mr. Boehm is charged with multiple counts of illegal activities from the period "... in or about late 2001 and continuing until at least December 22, 2003, ..." when he was arrested. Mr. Boehm was smoking crack cocaine on a continuous and heavy basis throughout this period of time.

From early/mid-2000 and continuing to and including 12/22/03, Mr. Boehm had no period of time when he would not have been experiencing some type of severe mental, and/or emotional, and/or physical impairment associated with the acute effects of cocaine, and/or toxic effects associated with high dose, chronic use of cocaine, and/or the "crash" phase following prolonged cocaine when the brain/body is no longer able to tolerate continued use. In addition to the preceding direct cocaine effects, Mr. Boehm would have had periods of malnutrition with associated alterations in blood sugar levels and sleep deprivation. Sleep deprivation is associated with a reduced ability to remember, altered perceptions and poor judgment.

The only time that Mr. Boehm had any period of abstinence from cocaine in the 2 ½ to 3 years prior to 12/22/03, was when he was incarcerated in the Anchorage jail from 12/13-17/03. According to Mr. Boehm, he returned to a pattern of heavy and continuous crack use within hours of his release on 12/17/03 and until he was again arrested on 12/22/03.

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Records from Mr. Boehm's arrest and the Anchorage jail are not currently available for the 12/13-17/03 and 12/22/03, continuing to date records. Booking records, all observation notes, any medical records, etc. are necessary to provide objective data regarding Mr. Boehm's behaviors and level of physical/mental functioning after his arrests. According to Mr. Boehm's history, it would be expected that these records would be consistent with his experiencing the "crash" phase of cocaine withdrawal including excessive sleeping.

Mr. Boehm described an extremely advanced stage of crack cocaine addiction in the 2 ½ to 3 years before his arrests in 12/03. He had totally lost any ability to voluntarily control his use of cocaine. Under these conditions, he would not have been concerned with time of day or day of the week except if the banks were open to get money for more drugs. Daytime and nighttime would run together. His daily activities would be focused on: getting more crack cocaine; using crack cocaine for as long a time that the drug was available or that his body would function; and periods of crashing with prolonged sleep to be immediately followed after he awoke by seeking and using more cocaine. This cycle continued uninterrupted from about mid to late 2000 until he was arrested in 12/03.

In Mr. Boehm's case, his financial status and ability to buy large quantities of crack was actually a curse that allowed him to continue to use cocaine while his level of life functioning deteriorated to a very low level.

Given his age and pattern of use, it is amazing that Mr. Boehm did not die during this 2 ½ - 3 year period of time from any of many possible causes including: a massive hemorrhagic stroke; a fatal heart arrhythmia; a seizure related toxic effects of high dose cocaine; an accident related to severe mental and/or physical impairment; an episode of hyperthermia (like a heat stroke).

Photographs taken when Mr. Boehm was arrested on 12/22/03 are consistent with his history of chronic use of high doses of cocaine. He was thin and pale. He appeared to be suffering from a serious, chronic, debilitating condition (which he was).

Photographs of Mr. Boehm's house are consistent with a life out of control. The windows all had the blinds closed. This finding is commonly seen with heavy cocaine use and is related to feelings of paranoia. The rooms are in disarray with stuff scattered all about the floor and furniture. The garage is filled with un-emptied sacks of garbage. There are a large number of plastic bags that appear to be filled with clothes. Mr. Boehm's office is piled high with papers and other items. There appears to be no clear, clean area anywhere in the house.

Mr. Boehm is at high risk to have experienced some type of permanent brain damage related to events preceding and subsequent to his heavy use of crack cocaine. Neuropsychological testing at MDC-LA in 9/04 report grossly normal findings of Mr. Boehm brain function. At the time of this testing, he had been abstinent from all psychoactive substances for about nine months. It is expected that his level of cognitive functioning would improve with abstinence from cocaine, adequate nutrition and relief from a chronically sleep deprived state before his 12/03 arrest.

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Despite the preceding results from MDC-LA, I still believe it is necessary to conduct structural and functional brain imaging studies and a carotid artery ultrasound as described in my 11/1/04 affidavit.

VI. Summary:

Mr. Boehm provides a credible history of crack cocaine use starting in the mid to late 1990's with a rapidly escalating pattern of use starting in early to mid-2000. High dose crack cocaine use by Mr. Boehm continued without interruption until he was first arrested and jailed on 12/13/03. He provided a history of experiences during the period before and after "... in about late 2001 ..." consistent with heavy use of crack cocaine and extreme dysfunction in all areas of life functioning.

Based upon my understanding of the issues, to act with knowledge requires: alertness with full awareness; accurate perceptions with the ability to comprehend what is happening around the person; and sound judgment. To act intentionally requires the ability to engage in purposeful, planned behavior to accomplish a conscious objective.

Mr. Boehm's extreme degree of mental mismanagement of perceptions, emotions, impulses, judgment, etc., with resultant irrational behaviors, is consistent with his pattern of use of extremely high dose crack cocaine during the period of time when he is alleged to have knowingly and/or intentionally committed illegal acts.

Under the conditions of continuous, high dose crack cocaine, it is my opinion that Mr. Boehm's total mental function impairments would have been so severe as to prevent him from being able to act with knowledge and intent in his behaviors as charged in the 8/17/04 Third Superseding Indictment.

I will reconsider my opinions if/when additional information becomes available.

Sincerely,

Gary A. Jacobsen, MD

Gary A. Jacobsen, M.D.
Addiction Medicine